

Office of Personnel Management

§ 890.1012

entirely or primarily of misdemeanor offenses;

(2) Whether court records, including associated sentencing reports, contain an official determination that the provider had a physical, mental, or emotional condition before or during the commission of the offenses underlying the conviction that reduced his level of culpability; or

(3) Whether the provider's cooperation with Federal and/or State investigative officials resulted in criminal convictions, civil recoveries, or administrative actions against other individuals, or served as the basis for identifying program weaknesses. Restitution made by the provider for funds wrongfully, improperly, or illegally received from Federal or State programs may also be considered as a mitigating circumstance.

(c) *Maximum period of debarment.* There is no limit on the maximum period of a mandatory debarment based on a conviction.

§ 890.1009 Contesting proposed mandatory debarments.

(a) *Contesting the debarment.* Within 30 days after receiving OPM's notice of proposed mandatory debarment, a provider may submit information, documents, and written arguments in opposition to the proposed debarment. OPM's notice shall contain specific information about where and how to submit this material. If a timely contest is not filed, the proposed debarment shall become effective as stated in the notice, without further action by OPM.

(b) *Requesting a reduction of the debarment period.* If OPM proposes a mandatory debarment for a period longer than the 3-year minimum required by 5 U.S.C. 8902a(g)(3), the provider may request a reduction of the debarment period to not less than 3 years, without contesting the debarment itself.

(c) *Personal appearance before the debarring official.* In addition to providing written material, the provider may appear before the debarring official personally or through a representative to present oral arguments in support of his contest. OPM's notice shall contain specific information about arranging an in-person presentation.

§ 890.1010 Debarring official's decision of contest.

(a) *Prior adjudication is dispositive.* Evidence indicating that a provider was formally adjudicated for a violation of any type set forth in 5 U.S.C. 8902a(b) fully satisfies the standard of proof for a mandatory debarment.

(b) *Debarring official's decision.* The debarring official shall issue a written decision, based on the entire administrative record, within 30 days after the record closes to receipt of information. The debarring official may extend this decision period for good cause.

(c) *No further administrative proceedings.* The debarring official's decisions regarding mandatory debarment and the period of debarment are final and are not subject to further administrative review.

PERMISSIVE DEBARMENTS

§ 890.1011 Bases for permissive debarments.

(a) *Licensure actions.* OPM may debar a health care provider to whom the provisions of 5 U.S.C. 8902a(c)(1) apply. OPM may take this action even if the provider retains current and valid professional licensure in another State(s).

(b) *Ownership or control interests.* OPM may debar a health care provider based on ownership or control of or by a debarred provider, as set forth in 5 U.S.C. 8902a(c)(2) and (3).

(c) *False, deceptive, or wrongful claims practices.* OPM may debar a provider who commits claims-related violations as set forth in 5 U.S.C. 8902a(c)(4) and (5) and 5 U.S.C. 8902a(d)(1) and (2).

(d) *Failure to furnish required information.* OPM may debar a provider who knowingly fails to provide information requested by an FEHBP carrier or OPM, as set forth in 5 U.S.C. 8902a(d)(3).

§ 890.1012 Time limits for OPM to initiate permissive debarments.

(a) *Licensure cases.* If the basis for the proposed debarment is a licensure action, OPM shall send the provider a notice of proposed debarment within 6 years of the effective date of the State licensing authority's revocation, suspension, restriction, or nonrenewal action, or the date on which the provider